

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT EARL KENNEDY,

Petitioner,

Civil No. 2:20-CV-13106

HONORABLE PAUL D. BORMAN

v.

BELINDA BRAHAM,

Respondent.

SECOND ORDER COMPELLING
PRODUCTION OF STATE COURT RECORD

Petitioner filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This Court signed an order of responsive pleadings requiring Respondent to file an answer in accordance with Rule 5 of the habeas corpus rules by May 30, 2021. Respondent filed an answer and some of the Rule 5 materials on May 28, 2021. However, a review of the record shows that the plea and sentencing transcript for March 26, 2018 (ECF No. 14-7) is an incomplete transcript in that it ends at page 17 even though the entire transcript is at least 34 pages, according to citations in the respondent's answer.

The habeas corpus rules require respondent to attach the relevant portions of the transcripts of the state court proceedings, if available, and the court may also order, on its own motion, or upon the petitioner's request, that further portions of the

transcripts or additional evidence be furnished. *Griffin v. Rogers*, 308 F.3d 647, 653 (6th Cir. 2002); Rules Governing § 2254 Cases, Rule 5, 28 U.S.C. foll. § 2254. “When this information is required, it is the State’s responsibility to provide it.” *Griffin*, 308 F.3d at 654. The general rule is that a district court must review the entire state court trial transcript in federal habeas cases, and where substantial portions of that transcript were omitted before the district court, the appellate court must remand the habeas case to the district court for consideration in light of the full record. *See Adams v. Holland*, 330 F.3d 298, 406 (6th Cir. 2003). It is reversible error for a district court to fail to review the transcripts upon which a habeas petitioner’s claims are dependent. *See Shaw v. Parker*, 27 F. App’x 448, 450 (6th Cir. 2001).

Based upon the foregoing, the Court ORDERS Respondent to produce a complete copy of the plea and sentencing transcript from March 26, 2018, within **fourteen (14) days** of the date of this order or show cause why they are unable to comply with the order.

s/Paul D. Borman

PAUL D. BORMAN

UNITED STATES DISTRICT JUDGE

Dated: September 27, 2021

CERTIFICATE OF SERVICE

I hereby certify on September 27, 2021, that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to non-registered ECF participants on September 27, 2021.

Carolyn M. Ciesla

Acting in the Absence of Deborah Tofil,
Case Manager to the Hon. Paul D. Borman